

§2.913 Review of Restricted Data or other National Security Information received in evidence.

At the close of the reception of evidence, the presiding officer shall review the record and shall direct that any Restricted Data or other National Security Information be expunged from the record where such expunction would not prejudice the interests of a party or the public interest. Such directions by the presiding officer will be considered by the Commission in the event of review of the determinations of the presiding officer.

Subpart J—Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository

SOURCE: 54 FR 14944, Apr. 14, 1989, unless otherwise noted.

§2.1000 Scope of subpart.

The rules in this subpart govern the procedure for applications for a license to receive and possess high-level radioactive waste at a geologic repository operations area noticed pursuant to §2.101(f)(8) or §2.105(a)(5). The procedures in this subpart take precedence over the 10 CFR Part 2, subpart G, rules of general applicability, except for the following provisions: §§2.702, 2.703, 2.704, 2.707, 2.711, 2.713, 2.715, 2.715a, 2.717, 2.718, 2.720, 2.721, 2.722, 2.732, 2.733, 2.734, 2.742, 2.743, 2.750, 2.751, 2.753, 2.754, 2.755, 2.756, 2.757, 2.758, 2.759, 2.760, 2.761, 2.763, 2.770, 2.771, 2.772, 2.780, 2.781, 2.786, 2.788, and 2.790.

[63 FR 71736, Dec. 30, 1998]

EFFECTIVE DATE NOTE: At 63 FR 71736, Dec. 30, 1998, §2.1000 was revised, effective Jan. 29, 1999.

§2.1001 Definitions.

Bibliographic header means the minimum series of descriptive fields that a potential party, interested governmental participant, or party must submit with a document or other material. The bibliographic header fields are a subset of the fields in the full header.

Circulated draft means a nonfinal document circulated for supervisory concurrence or signature in which the original author or others in the concurrence process have non-concurred. A “circulated draft” meeting the above criterion includes a draft of a document that eventually becomes a final document, and a draft of a document that does not become a final document due to either a decision not to finalize the document or the passage of a substantial period of time in which no action has been taken on the document.

Document means any written, printed, recorded, magnetic, graphic matter, or other documentary material, regardless of form or characteristic.

Documentary material means (1) any information upon which a party, potential party, or interested governmental participant intends to rely and/or to cite in support of its position in the proceeding for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 of this chapter; (2) any information that is known to, and in the possession of, or developed by the party that is relevant to, but does not support, that information or that party's position; and (3) all reports and studies, prepared by or on behalf of the potential party, interested governmental participant, or party, including all related “circulated drafts,” relevant to both the license application and the issues set forth in the Topical Guidelines in Regulatory Guide 3.69, regardless of whether they will be relied upon and/or cited by a party. The scope of documentary material shall be guided by the topical guidelines in the applicable NRC Regulatory Guide.

DOE means the U.S. Department of Energy or its duly authorized representatives.

Electronic docket means the NRC information system that receives, distributes, stores, and retrieves the Commission's adjudicatory docket materials.

Full header means the series of descriptive fields and subject terms given to a document or other material.

Image means a visual likeness of a document, presented on a paper copy, microform, or a bit-map on optical or magnetic media.

Interested governmental participant means any person admitted under § 2.715(c) of this part to the proceeding on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 of this chapter.

Licensing Support Network means the combined system that makes documentary material available electronically to parties, potential parties, and interested governmental participants to the proceeding for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 of this chapter, as part of the electronic docket or electronic access to documentary material, beginning in the pre-license application phase.

LSN Administrator means the person within the U.S. Nuclear Regulatory Commission responsible for coordinating access to and the integrity of data available on the Licensing Support Network. The LSN Administrator shall not be in any organizational unit that either represents the U.S. Nuclear Regulatory Commission staff as a party to the high-level waste repository licensing proceeding or is a part of the management chain reporting to the Director, Office of Nuclear Material Safety and Safeguards. For the purposes of this subpart, the organizational unit within the NRC selected to be the LSN Administrator shall not be considered to be a party to the proceeding.

Marginalia means handwritten, printed, or other types of notations added to a document excluding underlining and highlighting.

NRC means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

Party for the purpose of this subpart means the DOE, the NRC staff, the host State, any affected unit of local government as defined in section 2 of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101), any affected Indian Tribe as defined in section 2 of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101), and a person admitted under § 2.1014 to the proceeding on an application for a license to receive and possess high-level radio-

active waste at a geologic repository operations area pursuant to part 60 of this chapter; provided that a host State, affected unit of local government, or affected Indian Tribe shall file a list of contentions in accordance with the provisions of §§ 2.1014(a)(2) (ii) and (iii).

Personal record means a document in the possession of an individual associated with a party, interested governmental participant, or potential party that was not required to be created or retained by the party, interested governmental participant, or potential party, and can be retained or discarded at the possessor's sole discretion, or documents of a personal nature that are not associated with any business of the party, interested governmental participant, or potential party.

Potential party means any person who, during the period before the issuance of the first pre-hearing conference order under § 2.1021(d), is given access to the Licensing Support Network and who consents to comply with the regulations set forth in subpart J of this part, including the authority of the Pre-License Application Presiding Officer designated pursuant to § 2.1010.

Pre-license application electronic docket means the NRC's electronic information system that receives, distributes, stores, and maintains NRC pre-license application docket materials during the pre-license application phase.

Pre-license application phase means the time period before the license application to receive and possess high-level radioactive waste at a geologic repository operations area is docketed under § 2.101(f)(3). For the purpose of this subpart, this period begins 30 days after the date the DOE submits the site recommendation to the President pursuant to section 114(a) of the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10134(a)).

Pre-License Application Presiding Officer means one or more members of the Commission, or an atomic safety and licensing board, or a named officer who has been delegated final authority in the pre-license application phase with jurisdiction specified at the time of designation.

Nuclear Regulatory Commission

§ 2.1003

Preliminary draft means any nonfinal document that is not a circulated draft.

Presiding Officer means one or more members of the Commission, or an atomic safety and licensing board, or a named officer who has been delegated final authority in the matter, designated in the notice of hearing to preside.

Searchable full text means the electronic indexed entry of a document that allows the identification of specific words or groups of words within a text file.

Topical Guidelines means the set of topics set forth in Regulatory Guide 3.69, Topical Guidelines for the Licensing Support System, which are intended to serve as guidance on the scope of "documentary material".

[54 FR 14944, Apr. 14, 1989, as amended at 56 FR 7795, Feb. 26, 1991; 63 FR 71736, Dec. 30, 1998]

EFFECTIVE DATE NOTE: At 63 FR 71736, Dec. 30, 1998, § 2.1001 was amended by removing the definitions of *ASCII File* and *LSS Administrator*, adding definitions of *Electronic docket*, *Licensing Support Network*, *LSN Administrator*, *Pre-license application electronic docket*, and *Topical Guidelines*, and revising the definitions of *Documentary material*, *Party*, *Potential party*, *Pre-license application phase*, and *Searchable full text*, effective Jan. 29, 1999.

§ 2.1002 [Reserved]

§ 2.1003 Availability of material.

(a) Subject to the exclusions in § 2.1005 and paragraphs (b) and (c) of this section, NRC and DOE shall make available, beginning in the pre-license application phase, and each other potential party, interested governmental participant or party shall make available no later than 30 days after the date the repository site selection decision becomes final after review by Congress—

(1) An electronic file including bibliographic header for all documentary material (including circulated drafts but excluding preliminary drafts) generated by, or at the direction of, or acquired by, a potential party, interested governmental participant, or party. Concurrent with the production of the electronic file will be an authentication statement that indicates where an

authenticated image copy of the document can be obtained.

(2) In electronic image form, subject to the claims of privilege in § 2.1006, graphic-oriented documentary material that includes raw data, computer runs, computer programs and codes, field notes, laboratory notes, maps, diagrams and photographs which have been printed, scripted, or hand written. Text embedded within these documents need not be separately entered in searchable full text. Graphic-oriented documents may include—

- (i) Calibration procedures, logs, guidelines, data and discrepancies;
- (ii) Gauge, meter and computer settings;
- (iii) Probe locations;
- (iv) Logging intervals and rates;
- (v) Data logs in whatever form captured;
- (vi) Text data sheets;
- (vii) Equations and sampling rates;
- (viii) Sensor data and procedures;
- (ix) Data Descriptions;
- (x) Field and laboratory notebooks;
- (xi) Analog computer, meter or other device print-outs;
- (xii) Digital computer print-outs;
- (xiii) Photographs;
- (xiv) Graphs, plots, strip charts, sketches;

(xv) Descriptive material related to the information identified in paragraph (b)(1) of this section.

(3) In an electronic file, subject to the claims of privilege in § 2.1006, only a bibliographic header for each item of documentary material that is not suitable for image or searchable full text.

(4) An electronic bibliographic header for each documentary material—

(i) For which a claim of privilege is asserted;

(ii) Which constitutes confidential financial or commercial information; or

(iii) Which constitutes safeguards information under § 73.21 of this chapter.

(b) Basic licensing documents generated by DOE, such as the Site Characterization Plan, the Environmental Impact Statement, and the license application, or by NRC, such as the Site Characterization Analysis, and the Safety Evaluation Report, shall be made available in electronic form by the respective agency that generated the document.